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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

COHEN, C

ART UNIT

PAPER NUMBER

3634
DATE MAILED:

10/26/01 *15*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/484,344

Applicant(s)
Chauvvin

Examiner
Curtis Cohen

Art Unit
3634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 13, 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16 and 20-41 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16 and 20-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jan 18, 2000 is/are objected to by the Examiner.
- 11) ☒ The proposed drawing correction filed on Aug 13, 2001 is: a) ☒ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Drawings

The drawings are objected to because Figure 3 contains non-English language writing.

Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 16 and 20-41 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With respect to claim 16, line 10 and claim 30, line 9, the recitation of “ ”said support elements movably supporting said mobile panel such that said mobile panel is movable so as to open and close said at least one opening” does not appear to be supported in the specification such that one of ordinary skill can understand how the apparatus is enabled. The fact that the window panel 222, which is disclosed as being either fixed or movable, is located within the opening defined by the upper support 225 and the lower support 226, it is unclear how the window is mounted within the support elements 225 and 226 such that the window is capable of

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moving. That is, if panel member 222 is mounted between the support elements 225 and 226, then how does the movable panel member 223 move within the support elements? Wouldn't panel member 222 block movement of panel member 223. Although there is disclosure on page 9, line 17, of the panel member being movably mounted within the support elements, the disclosure fails to support how the panel 223 is mounted for movement considering the panel 222 appears to be blocking panel 223 from moving. In applicant's response, no explanation is provided other than pointing to the specification (page 9) for support to clarify the rejection and to state that the rejected claims have been canceled. However, since the unenabling language has been added to claim 16, this is not considered a new grounds of rejection.

Furthermore, in claim 23, the recitation of the mobile panel sliding in a plane approximately parallel to a plane defined by said fixed assembly is not enabled by the specification.

Similarly, claims 24 and 25, the specification fails to enable the recitation of the movable panel being coplanar with the fixed panel. Specifically, the specification fails to support how the movable panel can be mounted in the same plane as the fixed panel. The drawings fail to show such an embodiment including the specific support elements that would allow such a movement of the panel.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 22, the word "means" fails to include a function in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 16 and 20-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al #2,567,153. Jackson et al teaches a door having a lower part and an upper part containing a window. The upper and lower parts are assembled at a horizontally extending assembly area 94 of the door. The upper part of the door comprises means 48 for closing the window 56. Rivets 130 help mount the upper part to the lower part of the door assembly.

Claims 16, 20-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Ojanen #5,829,195. Ojanen teaches an upper door 16 connected to a lower door 22 at a horizontally

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extending area. The upper door contains a slidable window with mean 36 for moving the window within a track. With respect to claim 19, the upper part of the door contains a frame 38 and 40.

Response to Arguments

Applicant's arguments filed August 13, 2001 have been fully considered but they are not persuasive.

Applicant argues on page 10 that the upper and lower parts of Jackson et al are not fixed together and therefore the Section 102(b) rejection based on Jackson et al is impermissible. It is the examiner's position that the upper part of Jackson is connected to, (i.e., "fixed to"), the lower part since the members 100, 012 and 104 are inserted within holes 88, 90, and 92. The fact that the upper part is "removable" does not mean that the upper part is not "fixed" to the lower part. An element can certainly be "fixed" to another element and still be removable.

Applicant argues on page 12 that Ojanen is improperly applied as a Section 102 rejection of the listed claims because Ojanen teaches the upper window panel being fixed. Again, this appears to be a similar argument as stated above with respect to Jackson et al. The discrepancy lies within the interpretation of the term "fixed." Again, the examiner's position is that the upper door element is "fixed" to the lower door element since they are attached together. Even though the upper element of Ojanen can be removed more easily than the instant invention, Ojanen still meets the limitation of the upper panel being "fixed" to the lower panel.

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Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Cohen whose telephone number is (703) 308-2106.

The fax phone number for this Group is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.



C. Cohen

October 23, 2001